# FRUIT MEN

(From Saturday's Advertiser.) Warrants of arrest were sworn out by Attorney General E. C. Peters yesterday against Y. Okumoto, S. B. Fu-Jiyama, K. Odo, K. Iwakami and K. Thompson & Clemons as his attorneys, Yamamoto, on the charge of import- Yamamoto brought an action of reing fruit without making a request plevi This is a misdemeanor under the Agricultural Act, for which the penalty is a fine of not more than \$590.

Two others of the Japanese import-ers of fruit who have begun a determined resistance to the provisions of These are U. staying out of the game. Kobayachi and K. Iwahara, who, in the oranges without their being in-slang phrase, "got cold feet" and did spected. not come forward to claim their share of the suspected fruit.

Since the destruction of infected wise," as they doubtless thought, and the latest consignments have come here

pure food law even though never de- Mr. Craw to inspect them.

the rule should apply to imports de-stroyed by other lawful authority. Collector Stackable, however, saw livered to the consignee.

Collector Stackable, however, saw the game of the fruit importers and held up the questionable consignment arriving in the Doric ten days ago until he could see where the duties were going to come from. The customs officers did not pass the fruit now in dispute until Tuesday last.

The fruit was sold at auction as per-ishable goods on Wednesday, a proceeding that seems to have brought its Engaging importers out from cover. plevin for recovery of the fruit. fact the Advertiser published on Thursday morning.

Now the tables are turned and the importers have to answer for alleged

violation of law.

On the alarm being given by Alex-ander Craw, chief of entomology, the the law for protecting the Territory Board of Agriculture took prompt ac-from the introduction of plant blights tion. Resides the arrests of importers and insect pests escaped liability by just mentioned, an injunction suit has been brought to prevent the delivery of

Judge De Bolt signed the temporary writ of injunction at 2 o'clock yester-day afternoon. The suit is brought by oranges, as previously reported, the ex-porters at Asiatic ports have "got Commissioners of Agriculture and Forestry, named, and C. S. Holloway, exofficio a member of the Board of Com-"to order." This is a trick to escape missioners, etc., against K. Yamamoto, the payment of duty in the event of importer, and J. S. Kalakiela, deputy the destruction of the fruit by official sheriff of the county of Oahu. It is to restrain the respondents from inter-Under a ruling lately made, which fering with the Board of Agriculture was published in the Advertiser of in its inspection of fruits. On suing Monday last, duties are payable on out his writ of replevin for his oranges, goods destroyed under the Federal Yamamoto positively refused to allow

### JUDGE DOLE UPHOLDS THE REGISTRAR IN PART

Judge Sanford B. Dole yesterday the words of the statute a condition

ground is found for the issuance of a tion that the proceedings for condem-writ to compel respondent to register a ration above referred to were within judgment of the Federal court, the court declines to take jurisdiction of the writ of mandamus prayed for is his refusal to register a deed following desired in order to carry out the ob-the judgment. The reason for this dis-jects of the original proceeding and to tinction is that the Federal court does give complete relief. It can not be retinction is that the Federal court does give complete relief. It can not be renot issue writs of mandamus upon subjects unconnected with, or not ancil-relates to such judgment."

Authorities on jurisdiction in general and specifically are quoted, the followords on the other hand, to compel an original action in the Territorial ing being passages from the quotations are such as the other hand, to compel an original action in the Territorial ing being passages from the quotations are such as the other hand, to compel an original action of the other hand, to compel an original writ so far as it. courts, on the other hand, to compel an official to do some duty required of him

Omitting the captions the syllabus of Judge Dole's decision is as follows: "Proceedings for the condemnation of real estate in the Territory of Hawaii for the public purposes of the United States, brought in the U. S. Disturbed States in the U. S. Disturbed Sta trict Court of such Territory, shall be prosecuted in accordance with the stat-

of condemnation in such proceedings to be recorded in the office of the Reg-istrar of Conveyances of the Territory istrar of Conveyances of the Territory principles and usages of law. Usages in order that the property condemned of law, and not of common law, it will may vest in the plaintiff a refusal by the Registrar to record such judgment is ground for the issuance by the court a writ of mandamus to compel him

The refusal of the Registrar of Conveyances of such Territory to re cord a deed executed and delivered by certain of the defendants in such proceedings in conformity with the judg-ment of condemnation therein, is no ground for the issuance of a writ of mandamus by such court."

THE CASE STATED. In the opening of the opinion the substance of the petition is stated. Under condemnation proceedings in that court judgment was entered against J. W. Kawai and others whereby certain real estate on the Island of Oahu was condemned to the registry by the respondent, this court public use of the United States of would be without authority to issue a complete the title of the United States, States a deed of the property, which an original writ of mandamus. With was properly acknowledge, and offered the obvious connection of the deed in istrar had refused to receive and to re- a writ of mandamus to compel mus commanding the defendant as Registrar of Conveyances of the Territory not been done.

and not necessary or ancillary to the to necessary to the main case in order court's exercise of its jurisdiction. He to carry out its objects? I think not.

THE COURT'S VIEWS.

Judge Dole cites the statute of emithe Registrar of Conveyant and quired.

thereupon the property described shall quired.

'If this view is correct, a writ of

Then he quotes Sec. 716, Revised Statutes of the United States, which says: "The Supreme Court and the circuit and district courts shall have power to issue writs of scire facias They shall also have power to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the usages and principles of law." He then proceeds

with his opinion, thus: MUST REGISTER JUDGMENT. "The Territorial statute above quot-ed is, to my mind, conclusive upon the to the necessity of registration of a judgment of condemnation under the laws of eminent domain,

Judge Sanford B. Dole yesterday the words of the statute a condition rendered a decision in the mandamus sait of United States vs. Charles H. Merriam, as Registrar of Conveyances of the Territory of Hawaii.

It is practically in favor of the Territory, which defended the case by E. C. Peters, Attorney General. J. J. Though the defendent that this court of its jurispunne, Assistant U. S. District Attorney, appeared for petitioner. Though is not well taken, for there is no question that the proceedings for condens.

out of Riggs vs. Johnson County, 73 U.

S. 166 and subsequent pages: "Process subsequent to judgment is as essential to jurisdiction as process antecedent to judgment, else the judicial power would be incomplete and entirely inadequate to the purposes for which it was conferred by the Consti-

"Executions, it is admitted, may be utes of such Territory for the condemnation of property for public purposes.

"Such statutes requiring a judgment diction, is equally clear, with the single issued by the Circuit Court, but the restriction that the writ, and the mode of process, must be agreeable to the be observed, are the words of the provision.'

> It is shown by the court the proceedings for the writ conform to the principles and usages of law as existing in the laws of the United States for condemnation proceedings are shown to provide that such proceedings shall be prosecuted in accordance with the laws relating to suits for the condemnation of property of the states where in the proceedings may be instituted THE CONCLUSIONS.

Concluding, Judge Dole decides the two phases of the case as follows: "In regard to the deed referred to in the petition as having been refused America and the title thereto adjudged writ of mandamus to compel the registo be in the United States. Thereafter try thereof if it was an independent certain of the defendants, to further transaction without relation to the proceedings of condemnation, inasmuch executed and delivered to the United in that case such a process would be with the certified copy of the indgment this case with the said proceedings, it for record to the Registrar. The Reg. is still a question in my mind whether cord the instruments. Therefore the registry would not be an original writ petition prayed for a writ of manda- and therefore beyond the power of this court. Mr. Hughes says, in his Federal Procedure, page 266, 'The jurisdiction of Hawaii to receive for record and is conferred by reason of the principle record the said instruments or to show that it is necessary as an incident to cause to that court why the same has the main case and in order to carry out the objects of the main case and A plea to the jurisdiction was filed give complete relief or to settle all by defendant, saying the petition questions necessarily dependent upon showed the writ to be an original one the main case. Is the deed referred

prayed that the alternative writ of it would appear from the Hawaiian mandamus be dismissed. judgment of condemnation, upon being recorded in the office of the Registrar nent domain of this Territory, which of Conveyances, vests the property provides for a final order of condem- condemned in the plaintiff. This renation, "a certified copy of which must sult, so far as the transfer of the title be filed and recorded in the office of is concerned, is complete, and no fur-the Registrar of Conveyances; and ther section, conveyance or relief is re-

> mandamus to require the respondent to record the deed in this case, would be in original writ and therefore beyond the authority of this court.

In view of the foregoing authorities and considerations, the plea to the jurisdiction is allowed as to the deed of conveyance referred to in the petition and overruled as to the judgment of condemnation, and the defendant may have five days in which to show cause or make further plea."

It may be said that Registrar Merri-am declined the deed for registracion because of a domand that he register maps therewith, whereas the Territorial law governing the office specifically provides that maps may be filed but as such registration is clearly, from not recorded.

## WHAT ROOSEVELT SAID TO FATHER VALENTIN



FATHER VALENTIN

(From Saturday's Advertiser.) Father Valentin, who returned with the party of Bishop Libert yesterday derstand what he says? He says the morning, having been chaplain to the labor can be obtained. NOW I WANT Bishop during his long trip, has a very interesting story to tell of the journey. including a visit to the Pope and the President.

"The most interesting things to me in America," said Father Valentin last night, "were the Leland Stanford Junior University at Palo Alto, California, and the Library of Congress at Washington. We were in Washington twice and the second time we called on Secretary Atkinson, who introduced us to Mr. Roosevelt. I was more than is not as large a man as I thought ed to me and said, 'And this is Father land and commercial messages NESE. The Bishop replied that he would be able to send telegrams. though, possibly Italians and Portu-

Secretary Atkinson and said, 'Do you hear that Mr. Secretary? Do you un-IT TO BE OBTAINED. CITIZENS GROWING UP IN HA-

"The President expressed himself as delighted to see the Bishop, remarking, 'You are on your way to pay your respects to your spiritual superior and I am glad that you thought it fit to also pay your respects to your presi-This was the day, or the day dent. before that, that we sailed from New the President, being accompanied by York. We sailed from New York on the Kroonland of the Red Star Line, May 27, and two days out we received pleased with President Roosevelt. He full dispatches on board ship of the mitting this. battle of the Japan Straits. Every day him, but he has a piercing eye and is both going and coming, we were in very quick in his actions and words, touch by wireless telegraph with some As soon as Secretary Atkinson intro-duced the Bishop, the President turn-ceived the news just as we would on Valentin. Governor Carter wrote me sent also. A chart was kept of the about you.' President Roosevelt in- movements of ocean steamers and not quired at once of the Bishop about the a day passed that we did not get near labor situation in Hawaii and HE enough to some ship to wire to her. SAID HE WANTED TO SEE MORE Sometimes the distance was 180 miles, EUROPEANS AND NOT SUCH A but bulletins were posted so that we LARGE PROPORTION OF JAPA- always knew within an hour when we

guese could be obtained to work on to me was the Church of St. Cecelia, the sugar plantations, but that they as restored by Cardinal Rampolla, But would have to be given a little land everything in old Rome is historical, for their homes, say half an acre. He and the same is true of Venice. At thought that if the land were forth- another place in Italy we saw the faccoming the labor could be obtained tory where the mosales for the chapel.

The President immediately turned to of Stanford University are being made.

### COL. THOMAS FITCH ON ASSISTED IMMIGRATION

Attorney General," said Col. Fitch, 'that the Territory of Hawaii may do what individuals and private corporations can not lawfully do in 'assisting' emigrants to come to Hawaii from any part of the world except its China, will, I predict, prove the commercial and financial salvation of these Islands and will start a wave of prosperity that win never know a returning ebb. "It will affect others, I dare say, as

it has affected me. It almost confirms my wavering purpose to return here and resume law practice, and 'grow up with the country.' Those who are familiar with conditions here say that

who will jump at a chance to double their income by coming to Hawaii. These men will not emigrate as do the people of northern and central Europe. tered into until the arrival of the emi-They will not push out alone into grant at Honolulu and, of course, if he countries where people do not speak did not choose on arrival to contract their language or respect their relig-ious faith. But given an opportunity here, or did not choose to contract at to come in groups of families, bringing all he could not be compelled to do so, their priests with them, and they will but the emigrant would naturally ac-

Immigration Commissioners have full power to act. They are empowered, for instance, to receive financial sid from individuals and corporations. The denors of any fund would have a right to annex to such fund a condition that

locality and to 'assist' a certain class "Suppose that a sugar corporation,

of emigrants.

desirous of employing five hundred or more laborers, should offer to the Board of Immigration a donation or advance of say lifty thousand dollars condi-tioned upon the board appointing an agent to be named by the donor, under whose direction the money should be expended. The agent would proceed to me labor center in southern Italy or Portugal or in Egypt. He would advertise the advantages of Hawaii. He would offer to assist agricultural laborers only—for we do not need to help any more skilled mechanics or clubs to come here. He would require all applicants to be over twenty-one and under there are available lands in the Islands some sufficient to treble the present output of sugar if the labor with which to cultivate them can be obtained, and the Attorney General's decision that labor who sugar is the lawfully obtained was that the would fassist those who were accented, by providing them Attorney General's decision that labor may be lawfully obtained under the Territorial Act of last winter will prove of greater benefit to us than would a repeal of the Chinese exclusion act.

'There are millions of agricultural laborers in het and humid controls.

'There are millions of agricultural to give a note for the cost o from his wages by any person employing him.

"No contract for labor could be eneagerly embrace it.

'Under the law of 1905 the Board of Immigration Commissioners have full tract with that man's backers.

The work is still in progress and work men have been sent out from Italy to

set the stones in place, "The purpose of the trip was what is called Ad Limina, or the paying of a Bishop's respects to the Pope, which is expected to be done once in every ten

years. Another purpose was to obtain recruits for the Mission. We brought back with us three—Fathers Rodrigues of Belgium, and Servais of Germany, and Brother Angenbert of Holland. It is possible that Brother Angenbert may go to the Settlement, but it is not

vet decided."

The itinerary was as follows: Left Honolulu April 26. Arriving in Francisco they saw every Catholic mission there. Thence to Chicago where but two days were spent. To Dayton, Ohio, where some of the memfrom On to Washington, D. C. Then to New York, back to Washington and back to New York, sailing from that port May 27 and arriving at Antwerp the 6th of June, where they made their European headquarters. Left there for Rome on the 12th of July, via Paris. Toulon, Milan, Padua and Florence, at each of which places short stops were made. They were in Rome ten days and visited all the large churches there. Thence they traveled to Marseilles, passing through Monte Carlo and Nice, on to Lourdes, Bordeaux, Paris, Brus-sels and Antwerp. Trips were taken around Belgium and through Germany, visiting Aix-la-Chapelle, thence to England, stopping at York, London and Stafford. The Bishop went to Holland, but Father Valentin did not. They left Antwerp November 4 for New York, arriving in nine days, whence they took the through train for San Francisco, making the trip across the continent in four days and four nights, having but one hour in Chicago to change trains. They made a side trip from New York however, to Fall River, Mass., and return. They left San Francisco on the China November 25 and arrived home yesterday morning. Father Valentin has a very interest-

ng souvenir of his trip in the shape of some 212 or 213 postal cards representing the separate days of his trip, bought right on the spot day by day and containing a brief notation of current impressions, such as his thoughts immediately after the visit to the Stanford University, the Library of Congress, the President, the Pone, the Venitian art treasures, etc. The popular Father is looking refreshed from his trip and says he had a most enjoyable journey.

NETHERLANDS MAY BECOME A REPUBLIC

THE HAGUE, Nov. 18 .- A strange story is in circulation to the effect that according to the Dutch Constitution if the Queen is childless five years after her marriage, which will be on Febru-ary 2 next. Parliament is empowered to dissolve the union, and that there is a clause in the wedding contract per-Whatever was the origin of the fore-

going, there is not the slightest foundation for it. The Government is now busy revising the Constitution, especially the article referring to the succession. The nearest in line is the Grand Duke of Saxe-Weimar, who, according to German law, will be com-pelled to choose between the thrones of Saxe-Weimar and Holland. After him comes a princess of Reuss and then a princess of Wied.

There is marked antipathy throughout Holland to all these possible successors, as all are German. It is likely, therefore, that no heir will be sought, but that another peaceful revolution will be carried out and the Government made a republic.

#### PEARL CITY IS **NOT SO SLEEPY**

Quite a number of changes and improvements are being carried out at Pearl City. The place seems to have woke up from its lethargy and put on quite an air of activity. All the resi-dents of the suburbs are moving into "The decision of the United States, it should be used only in a certain the city, houses and churches are being moved in from the outskirts and it ooks like a sort of mobilization of the inhabitants. As this might create the impression that the city is becoming congested, I would state here that there is no immediate danger of overcrowded population. There is still room for a few more, as the city proper can poast of but five white men as present population (this does not include the peninsula).

Our road supervisor is supplying a long-felt want by macadamizing the road from the depot up to the government road, and is making a first-class

McCandless Bros. have almost completed another well for the O. R. & L. Co. alongside of their old well. When this is finished there ought to enough water for all purposes. It is to oe hoped the present state of activity will continue.

laborers in hot and humid countries to give a note for the cost of assisting outside of China who are working for from twenty to forty cents a day, and amount of his note might be deducted a supply ship. The Celtic goes heavily be made by the ship before she again reaches American waters-at nd Montevideo-where she will take aboard coal.

she will also have aboard a large number of old Spanish guns captured by Dewey at Manila, and which since the war have been stored at Mare Island. These old pieces of ordnance will be used to adorn the parks of many Eastern cities.

The new asphaltum driveway for the

# RICHARDSON

S. M. Ballou has filed an affidavit in support of a motion to advance the appeal of John Richardson from conviction of embezicement at Wailuku. His firm of Ballou & Marx was engaged for he defense and, when defendant was stricken with paralysis and likely to die, it was felt tant the appeal should be pushed to trial, as the firm believe I there was good ground for reversing the verdict. There seems to have been unaccountable delay in getting the papers from Wailuku, according to the affidavit.

Judge Lindsay yesterday morning admitted both the dying declaration of the victim and the confession of the defendant in the Takada murder trial. Messrs, Perry and Middleditch for the defendant took exceptions. The defense is now on.

Plaintiff rested in Niehaus Brothers Co. vs. Honolulu Brewing & Malting Co. before Judge Robinson and a jury yesterday, when defendant moved for a nonsuit. This was denied. A. Hock-ing was called by the defendant. At adjournment the trial went over till Monday.

Judge De Bolt was still engaged yes-terday hearing the Chinese partnership case relative to a store business at Kihei, Maui,

A jury is still lacking in the Federal court to try F. C. Bertelmann for perconating a Federal officer with the object of fraud.

In Hawaiian Carriage Manufacturing Co. vs. Schuman Carriage Co. stipulated between Thompson & Clenions for plaintiff and A. S. Humphreys for defendant that plaintiff may have until January 1 to file its amended complaint.

#### SUGAR CURED LUMBER FOR THE TROPICS

WASHINGTON, Nov. 18.-The State Department has received an import-ant report from American Consul Atwell, in Roubaix, France, which, it is expected, will open a new era of prosperity for the American lumber industry. The report deals with the French process of treating fresh woods by means of sugar and heat, which, it is asserted, preserves the wood and gives to it the appearance of age. According to Consul Atwell's report, specimens of the sugar-seasoned wood have been exported to different tropical countries for trial, and word has come from the Madras Presidency in India that specimens sent there have resisted successfully the attacks of white ants. This will doubtless bring about a revolution in the export timber trade to tropical countries, as soft wood treated by the new process will replace the expensive teak and euca-lyptus that are known to resist the ravages of white ants.

#### MAY HEAD OFF GERMANY.

MOSCOW, November 24.-The Huskoiye Slovo prints a dispatch from Warsaw saying that Austrian froops in Galicia are ready to take trains for the Russian frontier and prevent the Germans from crossing into Russian Poland.

#### OF THE MULTITUDES

who have used it, or are now using it, we have never heard of any one who has been disappointed in it. No claims are made for it except those which are amply justified by experience. In com-mending it to the afflicted we simply point to its record. It has done great things, and it is certain to continue the excellent work. There is—we may honestly affirm-no medicine which can be used with greater and more reasonable faith and confidence. It nourishes and keeps up the strength during those periods when the appetite fails and food cannot be digested. To guard against imitations this "trade trade mark" is put on every bottle of



"Wampole's Preparation," and without it none is genuine. It is palatable as honey and contains the nutritive and curative properties of Pure Cod Liver Oil, extracted by us from fresh cod livers, combined with the Compound Syrup of Hypophosphites and the Extracts of Malt and Wild Cherry. Taken before meals it creates an appetite, aids digestion, renews vital power, drives out disease germs, makes the blood rich, red and full of constructive elements, and gives back to the pleasures and labours of the world many who had abandoned hope. Doctor S. H. McCoy, of Canada, says: "I testify with pleasure to its unlimited usefulness as a tissue builder." Its curative powers can always be relied upon. It makes a new era in medicine, and is beneficial from the first dose. "You can trust it as the Ivy does the Oak."
One bottle convinces. Avoid all unreliable imitations. Sold by chemists throughout the world.